



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,304	08/30/2001	Robert de Sylva		8214

7590 03/03/2005

Robert de Sylva  
161 Ocean Park Blvd. #D  
Santa Monica, CA 90405

EXAMINER

SAVAGE, MATTHEW O

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	09/942,304	DE SYLVA, ROBERT	
	Examiner	Art Unit	
	Matthew O Savage	1724	

**All Participants:**

(1) Matthew O Savage.

(2) Robert de Sylva.

**Date of Interview:** 18 February 2005

**Status of Application:** \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

**Time:** \_\_\_\_\_

**Type of Interview:**

☒ Telephonic

☐ Video Conference

☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No

If Yes, provide a brief description:

**Part I.**

Rejection(s) discussed:

*none*

Claims discussed:

*none*

Prior art documents discussed:

*none*

**Part II.**

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

*See Continuation Sheet*

**Part III.**

☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

M. Savage

(Examiner/SPE Signature)

\_\_\_\_\_  
(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: The examiner indicated that the amendment after final had been received and that the 131 declaration appeared defective since a statement that the acts relied upon had carried out in the U.S. or NAFTA or WIPO member country had not been provided. The examiner suggested an extension of time and notice of appeal or request for an RCE be filed in order to prevent abandonment of the application.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/942,304	DE SYLVA, ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matthew O Savage	1724	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Matthew O Savage. (3)\_\_\_\_\_.
- (2) Robert de Sylva. (4)\_\_\_\_\_.

Date of Interview: 18 November 2004.

Type: a)☒ Telephonic b)☐ Video Conference  
c)☐ Personal [copy given to: 1)☒ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: none.

Identification of prior art discussed: none.

Agreement with respect to the claims f)☒ was reached. g)☐ was not reached. h)☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

M. Savage  
Examiner's signature, if required

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	09/942,304		DE SYLVA, ROBERT	
	<b>Examiner</b>		<b>Art Unit</b>	
	Matthew O Savage		1724	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Matthew O Savage. (3)\_\_\_\_\_.
- (2) Robert de Sylva. (4)\_\_\_\_\_.

Date of Interview: 19 January 2005.

Type: a) ☐ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☒ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.

If Yes, brief description: Three pages of a modified 131 declaration received via facsimile on 1-18-05.

Claim(s) discussed: none.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The examiner noted that the pictures on pages 2-3 of the modified declaration were illegible and suggested that the actual photographs be submitted. The examiner indicated that a statement needed to be provided in the declaration alleging that all of the acts relied upon to swear behind the Lowry reference had been carried out in the U.S. or NAFTA or WIPO country.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

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Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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	<b>Examiner</b>	<b>Art Unit</b>	
	Matthew O Savage	1724	

All participants (applicant, applicant's representative, PTO personnel):

(1) Matthew O Savage. (3)\_\_\_\_\_.

(2) Robert de Sylva. (4)\_\_\_\_\_.

Date of Interview: 19 January 2005.

Type: a) ☐ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☒ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.

If Yes, brief description: Three pages of a modified 131 declaration received via facsimile on 1-18-05.

Claim(s) discussed: none.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The examiner noted that the pictures on pages 2-3 of the modified declaration were illegible and suggested that the actual photographs be submitted. The examiner indicated that a statement needed to be provided in the declaration alleging that all of the acts relied upon to swear behind the Lowry reference had been carried out in the U.S. or NAFTA or WIPO country.

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M. Savage  
Examiner's signature, if required

Continuation of 5. Applicant's reply has overcome the following rejection(s): all of the objections to the specification; the rejection of claim 1 under 35 U.S.C. 112, second paragraph.

Continuation of 11. does NOT place the application in condition for allowance because: The rejection of claims 1, 2, 4, 7-15, 21, and 22 are maintained for the same reasons as set forth in the final rejection.

Continuation of 13. Other: The declaration filed on 1-25-05 is ineffective to antedate the Lowry reference. Specifically: the structure of the first prototype, exhibit G, has not been adequately explained and date on which the device had been reduced to practice, i.e., constructed and successfully tested has not been specified; the structure of second prototype, exhibit H, is not the same as that of the elected species and the date of actual reduction to practice of the second prototype has not been clearly specified; and, a statement in the declaration that the acts relied upon to establish the date prior to the Lowry reference were carried out in the U.S. or NAFTA or WTO member country has not been provided.

Attachments: Summaries of the telephone interviews conducted on 11-18-04, 1-19-05, and 2-18-05.



3 Pages total

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**Exhibit G:** Exhibit G includes photographs illustrating a prototype that Robert deSylva implemented with the assistance of Paul Oravec subsequent to disclosing the invention to Paul Oravec in 1994. This is the prototype referenced in the letter by Paul Oravec (Exhibit A). Oil analysis was periodically performed by Ana Laboratories ([www.analaboratories.com](http://www.analaboratories.com)). The device tested successfully. The prototype is still installed on Paul Oravec's truck, and the oil still does not need changing.

**Exhibit H:** Exhibit H includes photographs illustrating a second prototype completed after the prototype implemented in Exhibit G. The prototype of Exhibit H was constructed based on the drawings of Exhibit E

Robert deSylva was diligent in pursuing and implementing the invention as evidenced by signed letters of witnesses in the accompanying Exhibits A-D between the date of conception and reduction to practice. The diagrams of Exhibits E and F corroborate diligence prior to the filing date of Lowry, as these diagrams were constructed in preparation for prototype development. This was followed by reduction to practice as illustrated in Exhibit H.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both.

Respectfully submitted,

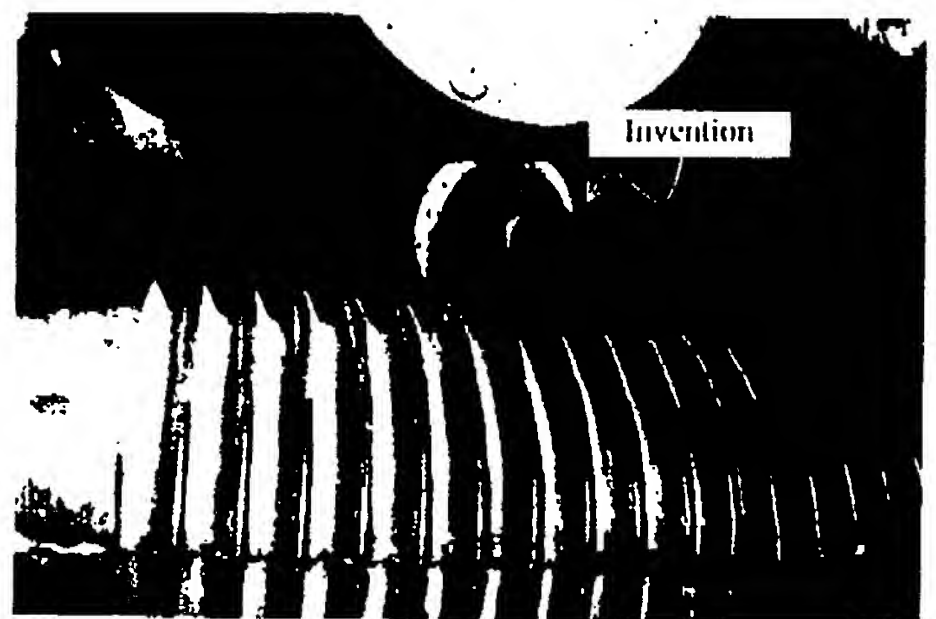
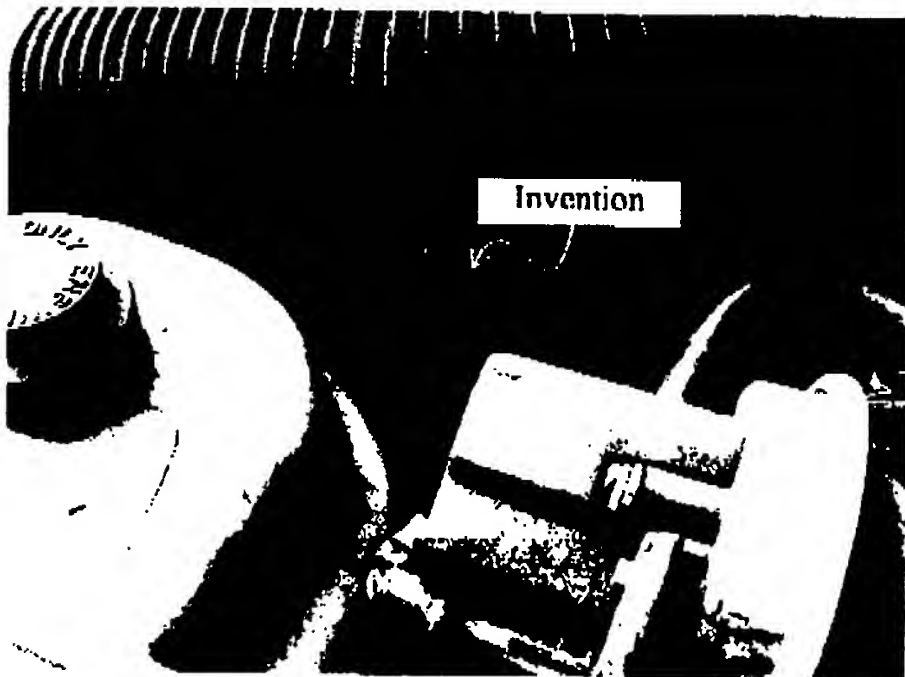
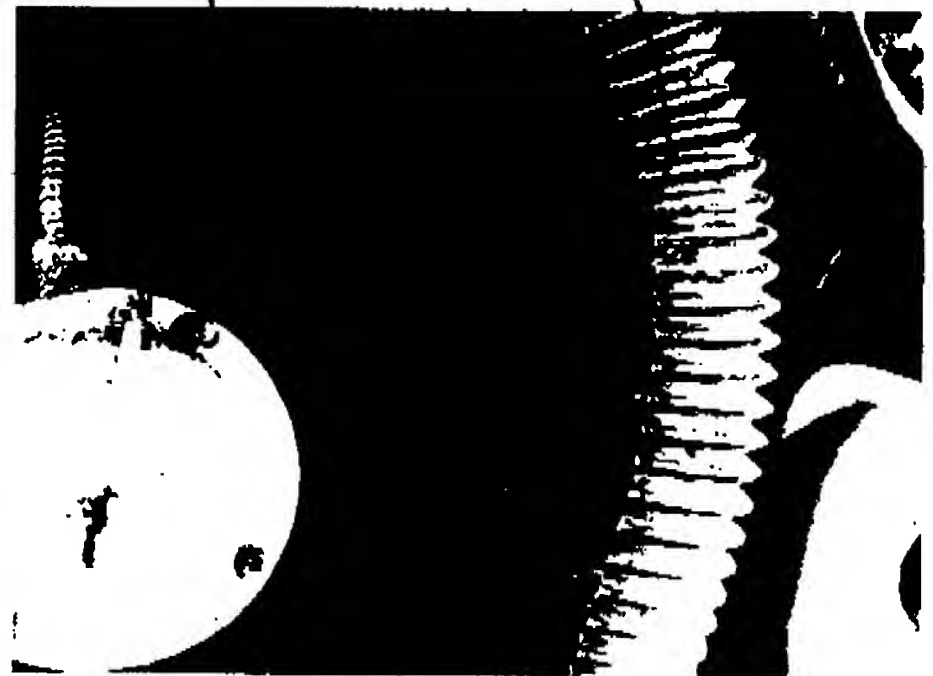
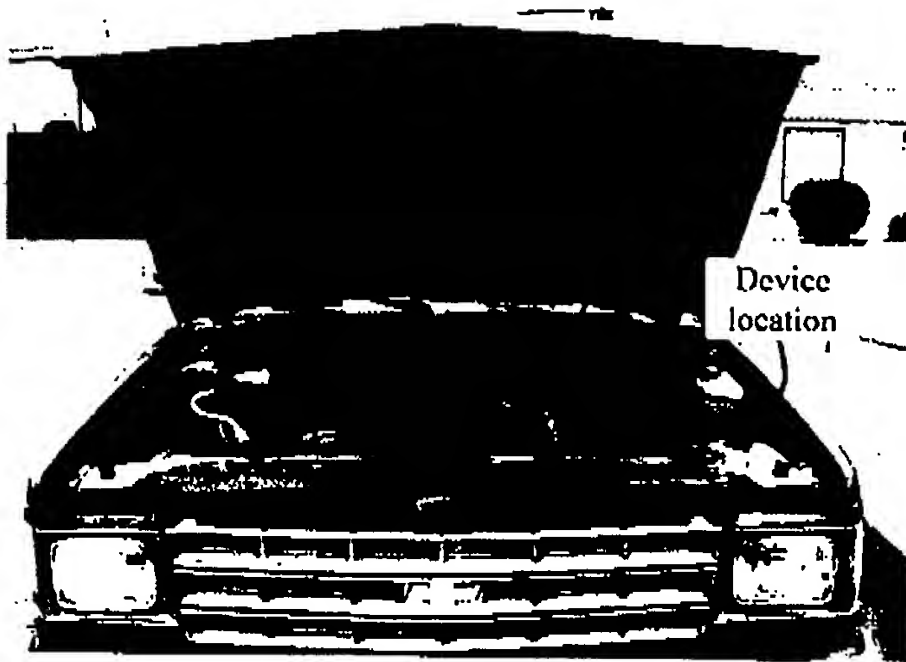
Robert de Sylva  
Applicant Pro Se

Robert de Sylva  
161 Ocean Park Boulevard Unit D,  
Santa Monica, California 90405  
(310) 452-4579

G

Conventional device  
discussed with reference to  
Fig. 1 of Application and  
mounted on the test vehicle  
for comparison testing.

Invention successfully  
installed and tested on the  
test vehicle.



H

